

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF NEVADA

3

4 BUESING CORPORATION,

5 Plaintiff,

6 v.

7 HELIX ELECTRIC OF NEVADA LLC,

8 Defendant.

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10 **JUDGE JAMES C. MAHAN'S  
11 ORDER REGARDING TRIAL**

12 Case No.: 2:16-cv-01439-JCM-NJK

13 1. Attached hereto is a list of cases that are presently scheduled for trial before the  
14 Honorable James C. Mahan, United States District Judge, at Las Vegas, Nevada,  
15 commencing on MONDAY, the 14<sup>th</sup> day of November, 2022 at 9:00 a.m. in Courtroom 6A.  
16 This is a two-week trial stack.

17 3. Counsel or their clients will be excused from calendar call if prior to the scheduled  
18 calendar call settlement papers have been filed in a civil case or a defendant's plea of guilty or  
19 nolo contendere has been accepted in a criminal case.

20 4. At calendar call, all cases that remain to be tried will be ranked in order of trial.  
21 Thereafter, the court will not grant a continuance to any party absent a showing of good cause.  
22 Unless the court otherwise directs, the cases will be tried one after the other on TWENTY-FOUR  
23 (24) HOURS' notice from the clerk.

24 5. **CHANGE OF PLEA HEARINGS.** Change of plea hearings will be set on the first  
25 available date on the court's calendar. It shall be the joint responsibility of counsel for the United  
26 States and for defendant(s) to ensure that the original and two copies of the plea agreement (or a  
plea memorandum in cases of no plea agreement), together with a copy of the indictment, are  
delivered to Judge Mahan's courtroom deputy clerk. **Change of plea hearings will not be heard  
at calendar call, and will not be set until a signed courtesy copy of the plea agreement (or a  
plea memorandum) is either delivered directly to Judge Mahan's courtroom deputy clerk**

1     **and/or faxed to chambers.** It shall further be the responsibility of counsel for the United States  
 2 to ensure that any necessary produce orders, or writs of habeas corpus ad prosequendum are timely  
 3 delivered to the United States marshal to ensure the presence of all in-custody defendants for a  
 4 change of plea, and to ensure proper notification for the attendance of any court interpreter which  
 5 may be required for the particular case.

6         **6. STATUS HEARING.** The court may conduct a status conference prior to the scheduled  
 7 calendar call. If the court is satisfied during the status conference that the case is ready for trial,  
 8 the court may vacate the calendar call.

9         **7. WITNESSES.** Counsel shall immediately subpoena all witnesses for the time and trial  
 10 date as listed above. Inasmuch as the cases will be tried in a trailing fashion, the subpoenas should  
 11 contain a special instruction from counsel directing witnesses to contact the office of counsel for  
 12 further instructions prior to appearing for trial. Witnesses are not required to be present at the  
 13 calendar call but must appear as subpoenaed.

14         **8. EXHIBITS.** At calendar call counsel shall submit all proposed exhibits on a DVDR,  
 15 CD, or USB Flash Drive (storage device) to Judge Mahan's courtroom deputy clerk. The disc or  
 16 drive shall be labeled with the title of the case and the name of the party for whom the exhibits are  
 17 submitted. A hard copy of the party's exhibits list that includes the electronic file name for each  
 18 exhibit shall be submitted with the storage device. Unless otherwise directed by the court, the  
 19 storage device will not be returned to counsel. Parties shall be prepared to submit hard copies of  
 20 any exhibits admitted during trial. At the same time, counsel shall serve upon opposing  
 21 counsel a copy of the same. **Numerals** shall be used to identify all exhibits. **Plaintiff's exhibits**  
 22 shall be marked 1 through 500. **Defendant's exhibits** shall be marked 501 through 1000. Exhibits  
 23 that are on the same subject matter may be marked as a series: that is, Plaintiff's 1-A, 1-B, etc.,  
 24 and Defendant's 501-A, 501-B, etc. The exhibits shall be listed on the form to be provided by the  
 25 clerk and pursuant to the instructions as shall be supplied by the clerk.

26         **Submitting Exhibits**

There are two ways for attorneys to submit exhibits:

JUDGE JAMES C. MAHAN'S  
 ORDER REGARDING TRIAL - 2

1     Method one: each exhibit file should be clearly named as in the examples below, using this  
2     format: **exhibit number\_exhibit description.file extension**, or, if an exhibit has sub-parts,  
3     **exhibit number-exhibit subpart\_exhibit description.file extension**. All exhibits must be in the  
4     same folder or directory.

5     For example: 1-a\_photo of store from east view.jpg

6                         1-b\_photo of store from west view.jpg

7                         2\_camera footage.wmv

8                         3\_contract.pdf

9     Method two: law firms using exhibit management software may submit (on a storage device)  
10    exhibits exported using an indexed filename method with a text delimited file naming the exhibits.  
11    The text file must be named “Exhibits.txt” and each line must contain information using this  
12    format: **exhibit number-optional subpart|exhibit description|exhibit file name**. The  
13    “exhibits.txt” file must be in the same folder or directory as all the exhibits.

14    For example: 001-001|Photo of bank|GX001.pdf

15                         002-001|Camera footage|GX002.wmv

## 16    **Exhibit File Types**

17    The court’s evidence system will accept electronic evidence only in the following formats as  
18    other types cannot be uploaded:

- 19                         • Documents and Photographs: .bmp, .gif, .jpg, .pdf, .tif
- 20                         • Video and Audio Recordings: .avi, .mpg, mp3, .wav, .wma, .wmv

21    \*\*Each PDF file may not be larger than 12MB. Hyphens and underscore characters must be used  
22    as shown in the examples above.

23                         Counsel may use computer-generated exhibit lists so long as they conform to the  
24    requirements of the form that is provided by the clerk. Counsel shall retain possession of their  
25    exhibits until such time as they are identified in open court; afterward, the exhibits shall remain in  
26    the custody of the clerk, unless otherwise ordered.

1           **9. MARKING EXHIBITS.** During preparations for trial, counsel for all parties shall meet,  
2 confer, and exchange all trial exhibits at calendar call.

3           **10. WITNESS LISTS:** At calendar call, counsel and any party appearing pro se, shall  
4 file with the courtroom deputy clerk a **list of witnesses** expected to be called on behalf of each  
5 party for use by the court during jury selection.

6           **11. STATEMENT OF THE CASE:** At calendar call, counsel and any party appearing  
7 pro se shall file with the courtroom deputy clerk a brief statement of the case, no longer than one-  
8 half page, stating the nature of the claims and offenses, to be read to prospective jurors at the time  
9 of jury selection. In a criminal case, a copy of the Indictment, indicating which portions should be  
10 read to the jury, will satisfy this requirement.

11           **12. JURY INSTRUCTIONS IN CRIMINAL CASES.** Counsel are to comply with the  
12 “Order Regarding Pretrial Procedure.” At calendar call, counsel is required to jointly file one  
13 set of agreed-upon proposed jury instructions and form of a verdict at calendar call to the  
14 Court both in document form and on computer disk in Word format. The parties are further  
15 advised that the undersigned district judge has developed his own “stock” or “general” jury  
16 instructions drawn principally from the **Manual of Model Criminal Jury Instructions for the**  
17 **Ninth Circuit.**

18           **13. GOVERNMENT’S TRIAL MEMORANDUM.** In all criminal cases, Plaintiff  
19 United States shall file its original **government’s trial memorandum** under seal at calendar call  
20 and shall also provide a reading copy for the court. The government’s trial memorandum shall be  
21 served on counsel for defendant on the date trial commences.

22           **14. JURY INSTRUCTIONS IN CIVIL CASES.** In all civil cases to be tried before a  
23 jury, counsel and any parties appearing pro se are required to jointly file one set of agreed-upon  
24 jury instructions and form of a verdict at calendar call both in document form and on  
25 computer disk in Word format. To meet this requirement, the parties are required to serve their  
26 proposed jury instructions upon each other at least two weeks prior to trial and file those with  
the court on the date indicated in the pretrial order, and to thereafter confer to arrive at a

1       **single set of jointly agreed upon jury instructions.** To the extent the parties are unable to agree  
 2 as to the form of any particular instruction(s), each party shall also file at **calendar call** the jury  
 3 instruction(s) which are not agreed upon together with the respective arguments and authorities of  
 4 the parties in support thereof.

5           The parties are further advised that the undersigned district judge has developed his own  
 6 “stock” or “general” jury instructions drawn principally from the **Manual of Model Civil Jury**  
 7 **Instructions for the Ninth Circuit.** Therefore, the efforts of the parties in preparing the jury  
 8 instructions in compliance with this order should be focused on developing special jury  
 9 instructions which relate to the particular claims and defenses at issue as well as those relating to  
 10 the damages and any special evidentiary matters pertinent to the case.

11          All proposed jury instructions submitted by the parties should be concise, understandable,  
 12 and neutral statements of law. Argumentative jury instructions are improper, will not be given, and  
 13 should not be submitted.

14           **15. TRIAL BRIEFS, PROPOSED FINDINGS OF FACT AND CONCLUSIONS**  
 15 **OF LAW.** To the extent they have not already done so in accordance with the court’s joint pretrial  
 16 order, counsel for all parties, and any party appearing pro se, shall file an original and two copies  
 17 of a trial brief in all civil cases at **calendar call**. Additionally, in all civil cases to be tried before  
 18 the court sitting without a jury, the parties shall file proposed findings of fact and  
 19 conclusions of law at **calendar call**. Counsel wishing to utilize the court’s evidence display  
 20 equipment must contact the courtroom deputy to determine its availability and to arrange for  
 21 training.

22           **16. EXPEDITED OR DAILY TRANSCRIPTS.** Any party that will require expedited or  
 23 daily transcripts shall notify the Court Reporter Team via email  
 24 [transcript\\_orders@nvd.uscourts.gov](mailto:transcript_orders@nvd.uscourts.gov) immediately upon receipt of this order. Failure to timely  
 25 notify the Reporter may result in the refusal to provide expedited or daily transcripts. A  
 26 Transcript Order form must be submitted to [transcript\\_orders@nvd.uscourts.gov](mailto:transcript_orders@nvd.uscourts.gov) .

1           **17. TRIAL JUDGE.** Although the cases that are listed on the attached trial calendar are  
2 assigned to Judge Mahan, the cases may proceed to trial before another Nevada district judge or a  
3 visiting district judge.

4           **18. CONSENT TO TRIAL BEFORE A MAGISTRATE JUDGE.** Counsel and parties  
5 in civil actions are reminded of their right to consent to disposition before a United States  
6 magistrate judge pursuant to Title 28, Section 636(c)(2) of the United States Code. The right to  
7 proceed before a magistrate judge in a civil case includes those cases that will be tried before a  
8 jury as well as those cases to be tried before the court sitting without a jury. Any appeal from a  
9 judgment in a proceeding before a magistrate judge shall be taken directly to the United States  
10 court of appeals. The option to proceed before a magistrate judge is available to the parties at the  
11 time an action is commenced. The court may refuse to approve consent if it appears to be motivated  
12 by an effort to delay the proceeding.

13           **19. SANCTIONS.** As provided for under the local rules of practices of this court, the court  
14 will consider the imposition of sanctions against any attorney who: **(1)** fails to timely file trial  
15 briefs, suggested voir dire questions and proposed jury instructions or proposed findings of fact  
16 and conclusions of law, whichever is applicable, as prescribed by the pretrial order, order regarding  
17 pretrial procedure, scheduling order or any order extending the time for such filings; **(2)** fails to  
18 comply with the provision of this order including, but not limited to, the failure to appear for  
19 calendar call without first having been excused by the court or the clerk with the permission of the  
20 court; or **(3)** fails to timely comply with any other order that schedule deadlines for trial  
21 preparation.

22           **20. CONTACT PERSON.** All questions and information regarding the trial calendar are  
23 to be directed to **ANGELA REYES**, courtroom deputy clerk, at **702-464-5437**.

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1 21. The date of the clerk's file mark shall constitute the date of this order.

2 IT IS SO ORDERED.

James C. Mahan  
JAMES C. MAHAN  
United States District Judge

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA  
LAS VEGAS, NEVADA  
COURTROOM 6A

**MONDAY, NOVEMBER 14, 2022**

## PRESENT:

THE HONORABLE JAMES C. MAHAN, U.S. DISTRICT JUDGE

Angela Reyes

## Courtroom Administrator

### Law Clerk(s)

## Reporter/Recorder

**9:00 A.M.**

2:16-cv-01439-JCM-NJK

## BUESING CORPORATION, AN

## ARIZONA CORPORATION

V.

HELIX ELECTRIC OF NEVADA LLC

## BENCH TRIAL

**COUNSEL FOR PLAINTIFF(s):**

J. Cahill, Esq.

Gabriel Blumberg, Esq.

Michael Rubin, Esq.

**COUNSEL FOR DEFENDANT(s):**

Theodore Parker III, Esq.

Shana Weir, Esq.

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**UNITED STATES DISTRICT COURT**  
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**DISTRICT OF NEVADA**  
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8 , 2:-CV- JCM ( )  
9 Plaintiff,  
10 v.  
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15 JURY INSTRUCTIONS

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1 JCM STOCK CIVIL JURY INSTRUCTION 1.1C

2 **DUTIES OF JURY (COURT READS AND PROVIDES WRITTEN INSTRUCTIONS AT**  
3 **END OF CASE)**

4 Members of the jury, now that you have heard all the evidence (and the arguments of the  
5 attorneys), it is my duty to instruct you as to the law of the case. A copy of these instructions will  
6 be sent with you to the jury room when you deliberate.

7 You must not infer from these instructions or from anything I may say or do as indicating that  
8 I have an opinion regarding the evidence or what your verdict should be.

9 It is your duty to find the facts from all the evidence in the case. To those facts you will  
10 apply the law as I give it to you. You must follow the law as I give it to you whether you agree with  
11 it or not. And you must not be influenced by any personal likes or dislikes, opinions, prejudices or  
12 sympathy. That means that you must decide the case solely on the evidence before you. You will  
13 recall that you took an oath promising to do so.

14 In following my instructions, you must follow all of them and not single out some and ignore  
15 others; they are all important.

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1 JCM STOCK CIVIL JURY INSTRUCTION – 1.3

2 **BURDEN OF PROOF—PREPONDERANCE OF THE EVIDENCE**

3 When a party has the burden of proof on any claim or affirmative defense by a preponderance  
4 of the evidence, it means that you must be persuaded by the evidence that the claim or affirmative  
5 defense is more probably true than not true.

6 You should base your decision on all of the evidence, regardless of which party presented  
7 it.

8 At the beginning of the case, I told you that the party asserting a claim has the burden of  
9 proving that claim by a preponderance of the evidence. That means that a party asserting a claim has  
10 to produce evidence which, considered in the light of all of the facts, leads you to believe that what  
11 the party claims is more likely true than not. To put it differently, if you were to place each party's  
12 evidence on opposite sides of the scales, the party asserting a claim would have to make the scales  
13 tip slightly on that side. If the party asserting a claim fails to meet this burden, the verdict must be  
14 for the defending party.

15 Those of you who have sat on criminal cases will have heard of proof beyond a reasonable  
16 doubt. That is a stricter standard, i.e., it requires more proof than a preponderance of the evidence.  
17 The reasonable doubt standard does not apply to a civil case and you should therefore put it out of  
18 your mind.

19 The plaintiff has the burden of proof as to the elements of his case by a preponderance of the  
20 evidence.

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1 JCM STOCK CIVIL JURY INSTRUCTION – 1.4

2 **BURDEN OF PROOF–CLEAR AND CONVINCING EVIDENCE**

3 When a party has the burden of proving any claim or defense by clear and convincing  
4 evidence, it means you must be persuaded by the evidence that the claim or defense is highly  
5 probable. This is a higher standard of proof than proof by a preponderance of the evidence.

6 You should base your decision on all of the evidence, regardless of which party presented  
7 it.

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1 JCM STOCK CIVIL JURY INSTRUCTION – 1.5

2 **TWO OR MORE PARTIES–DIFFERENT LEGAL RIGHTS**

3 You should decide the case as to each [plaintiff] [defendant] separately. Unless otherwise  
4 stated, the instructions apply to all parties.

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1 JCM STOCK CIVIL JURY INSTRUCTION – 1.6

2 **WHAT IS EVIDENCE**

3 The evidence you are to consider in deciding what the facts are consists of:

4 1. The sworn testimony of any witness;

5 2. The exhibits which are received into evidence; and

6 3. Any facts to which the lawyers have agreed.

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1 JCM STOCK CIVIL JURY INSTRUCTION – 1.7

2 **WHAT IS NOT EVIDENCE**

3 In reaching your verdict, you may consider only the testimony and exhibits received into  
4 evidence. Certain things are not evidence, and you may not consider them in deciding what the facts  
5 are. I will list them for you:

6 (1) Arguments and statements by the lawyers are not evidence. The  
7 lawyers are not witnesses. What they have said in their opening statements, will say  
8 in their closing arguments and at other times is intended to help you interpret the  
9 evidence, but it is not evidence. If the facts as you remember them differ from the  
way the lawyers have stated them, your memory of them controls.

10 (2) Questions and objections by lawyers are not evidence. Attorneys have  
11 a duty to their clients to object when they believe a question is improper under the  
12 rules of evidence. You should not be influenced by the objection or by the court's  
ruling on it.

13 (3) Testimony that has been excluded or stricken, or that you have been  
14 instructed to disregard, is not evidence and must not be considered. In addition,  
15 sometimes testimony and exhibits are received only for a limited purpose; when I  
give or have given a limiting instruction, you must follow it.

16 (4) Anything you may have seen or heard when the court was not in  
17 session is not evidence. You are to decide the case solely on the evidence received  
18 at the trial.

1 JCM STOCK CIVIL JURY INSTRUCTION – 1.9

2 **DIRECT AND CIRCUMSTANTIAL EVIDENCE**

3 Evidence may be direct or circumstantial. Direct evidence is direct proof of a fact, such as  
4 testimony by a witness about what that witness personally saw or heard or did. Circumstantial  
5 evidence is proof of one or more facts from which you can find another fact. You should consider  
6 both direct and circumstantial evidence. The law makes no distinction between the weight to be  
7 given to either direct or circumstantial evidence. It is for you to decide how much weight to give to  
any evidence.

8 By way of example, if you wake up in the morning and see that the sidewalk is wet, you may  
9 find from that fact that it rained during the night. However, other evidence, such as a turned on  
10 garden hose, may provide a different explanation for the presence of water on the sidewalk.  
Therefore, before you decide that a fact has been proved by circumstantial evidence, you must  
11 consider all the evidence in the light of reason, experience, and common sense.

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1 JCM STOCK CIVIL JURY INSTRUCTION – 1.11

2 **CREDIBILITY OF WITNESSES**

3 In deciding the facts in this case, you may have to decide which testimony to believe and  
4 which testimony not to believe. You may believe everything a witness says, or part of it, or none of  
it. Proof of a fact does not necessarily depend on the number of witnesses who testify about it.

5 In considering the testimony of any witness, you may take into account:

6 (1) the witness's opportunity and ability to see or hear or know the things testified  
7 to;

8 (2) the witness's memory;

9 (3) the witness's manner while testifying;

10 (4) the witness's interest in the outcome of the case and any bias or prejudice;

11 (5) whether other evidence contradicted the witness's testimony;

12 (6) the reasonableness of the witness's testimony in light of all the evidence; and

13 (7) any other factors that bear on believability.

14 The weight of the evidence as to a fact does not necessarily depend on the number of  
15 witnesses who testify.

16 In deciding whether or not to believe a witness, keep in mind that people sometimes forget  
17 things. You need to consider therefore whether a contradiction is an innocent lapse of memory or  
only a small detail.

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INSTRUCTIONS FROM THE PARTIES

1 JCM STOCK CIVIL JURY INSTRUCTION – 3.1

2 **DUTY TO DELIBERATE**

3 When you begin your deliberations, elect one member of the jury as your presiding juror.  
4 That person will preside over the deliberations and speak for you here in court.

5 You will then discuss the case with your fellow jurors to reach agreement if you can do so.  
6 Your verdict must be unanimous.

7 Each of you must decide the case for yourself, but you should do so only after you have  
8 considered all the evidence, discussed it fully with the other jurors, and listened to the views of your  
9 fellow jurors.

10 Do not hesitate to change your opinion if the discussion persuades you that you should. Do  
11 not come to a decision simply because other jurors think it is right.

12 It is important that you attempt to reach a unanimous verdict but, of course, only if each of  
13 you can do so after having made your own conscientious decision. Do not change an honest belief  
14 about the weight and effect of the evidence simply to reach a verdict.

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1 JCM STOCK CIVIL JURY INSTRUCTION – 3.2

2 **COMMUNICATION WITH COURT**

3 If it becomes necessary during your deliberations to communicate with me, you may send a  
4 note through the [marshal] [bailiff], signed by your presiding juror or by one or more members of  
5 the jury. No member of the jury should ever attempt to communicate with me except by a signed  
6 writing; I will communicate with any member of the jury on anything concerning the case only in  
7 writing, or here in open court. If you send out a question, I will consult with the parties before  
8 answering it, which may take some time. You may continue your deliberations while waiting for  
9 the answer to any question. Remember that you are not to tell anyone – including me – how the jury  
stands, numerically or otherwise, until after you have reached a unanimous verdict or have been  
10 discharged. Do not disclose any vote count in any note to the court.

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1 JCM STOCK CIVIL JURY INSTRUCTION – 3.3

2 **RETURN OF VERDICT**

3 A verdict form has been prepared for you. After you have reached unanimous agreement  
4 on a verdict, your presiding juror will fill in the form that has been given to you, sign and date it and  
advise the court that you are ready to return to the courtroom.

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**UNITED STATES DISTRICT COURT**  
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**DISTRICT OF NEVADA**  
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8           **UNITED STATES OF AMERICA,**

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9           Plaintiff,

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15           JURY INSTRUCTIONS

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1 JURY INSTRUCTION NO. \_\_\_\_

2       Members of the jury, now that you have heard all the evidence (and the arguments of the  
3 lawyers), it is my duty to instruct you on the law that applies to this case. A copy of these  
4 instructions will be available in the jury room for you to consult.

5       It is your duty to weigh and to evaluate all the evidence received in the case and, in that  
6 process, to decide the facts. It is also your duty to apply the law as I give it to you to the facts as you  
7 find them, whether you agree with the law or not. You must decide the case solely on the evidence  
8 and the law and must not be influenced by any personal likes or dislikes, opinions, prejudices or  
9 sympathy. You will recall that you took an oath promising to do so at the beginning of the case.

10      You must follow all these instructions and not single out some and ignore others; they are  
11 all important. Please do not read into these instructions or into anything I may have said or done,  
12 any suggestion as to what verdict you should return – that is a matter entirely up to you.

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1 JURY INSTRUCTION NO. \_\_\_\_

2       The indictment is not evidence. The defendant has pleaded not guilty to the charge[s]. The  
3 defendant is presumed to be innocent unless and until the government proves the defendant guilty  
4 beyond a reasonable doubt. In addition, the defendant does not have to testify or present any  
5 evidence to prove innocence. The government has the burden of proving every element of the  
6 charge[s] beyond a reasonable doubt.

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1 JURY INSTRUCTION NO. \_\_\_\_

2 A defendant in a criminal case has a constitutional right not to testify. You may not draw any  
3 inference of any kind from the fact that the defendant did not testify.

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1 JURY INSTRUCTION NO. \_\_\_\_

2 The defendant has testified. You should treat this testimony just as you would the testimony  
3 of any other witness.

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1 JURY INSTRUCTION NO. \_\_\_\_

2 Proof beyond a reasonable doubt is proof that leaves you firmly convinced the defendant is  
3 guilty. It is not required that the government prove guilt beyond all possible doubt.

4 A reasonable doubt is a doubt based upon reason and common sense and is not based purely  
5 on speculation. It may arise from a careful and impartial consideration of all the evidence, or from  
6 lack of evidence.

7 If after a careful and impartial consideration of all the evidence, you are not convinced  
8 beyond a reasonable doubt that the defendant is guilty, it is your duty to find the defendant not guilty.  
9 On the other hand, if after a careful and impartial consideration of all the evidence, you are  
10 convinced beyond a reasonable doubt that the defendant is guilty, it is your duty to find the defendant  
11 guilty.

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1 JURY INSTRUCTION NO.

2 The evidence you are to consider in deciding what the facts are consists of:

3 (1) the sworn testimony of any witness; [and]

4 (2) the exhibits received in evidence[.] [;and]

5 (3) any facts to which the parties have agreed.

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1 JURY INSTRUCTION NO.

2 In reaching your verdict you may consider only the testimony and exhibits received in  
3 evidence. The following things are not evidence and you may not consider them in deciding what  
4 the facts are:

5 1. Questions, statements, objections, and arguments by the lawyers are not evidence. The  
6 lawyers are not witnesses. Although you must consider a lawyer's questions to understand the  
7 answers of a witness, the lawyer's questions are not evidence. Similarly, what the lawyers have said  
8 in their opening statements, [will say in their] closing arguments and at other times is intended to  
9 help you interpret the evidence, but it is not evidence. If the facts as you remember them differ from  
the way the lawyers state them, your memory of them controls.

10 2. Any testimony that I have excluded, stricken, or instructed you to disregard is not  
11 evidence. [In addition, some evidence was received only for a limited purpose; when I have  
12 instructed you to consider certain evidence in a limited way, you must do so.]

13 3. Anything you may have seen or heard when the court was not in session is not evidence.  
You are to decide the case solely on the evidence received at the trial.

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1 JURY INSTRUCTION NO.

2 Evidence may be direct or circumstantial. Direct evidence is direct proof of a fact, such as  
3 testimony by a witness about what that witness personally saw or heard or did. Circumstantial  
4 evidence is indirect evidence, that is, it is proof of one or more facts from which you can find another  
fact.

5 You are to consider both direct and circumstantial evidence. Either can be used to prove any  
6 fact. The law makes no distinction between the weight to be given to either direct or circumstantial  
7 evidence. It is for you to decide how much weight to give to any evidence.

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1 JURY INSTRUCTION NO. \_\_\_\_

2 In deciding the facts in this case, you may have to decide which testimony to believe and  
3 which testimony not to believe. You may believe everything a witness says, or part of it, or none of  
4 it.

5 In considering the testimony of any witness, you may take into account:

6 (1) the witness's opportunity and ability to see or hear or know the things testified  
7 to;  
8 (2) the witness's memory;  
9 (3) the witness's manner while testifying;  
10 (4) the witness's interest in the outcome of the case, if any;  
11 (5) the witness's bias or prejudice, if any;  
12 (6) whether other evidence contradicted the witness's testimony;  
13 (7) the reasonableness of the witness's testimony in light of all the evidence; and  
14 (8) any other factors that bear on believability.

15 The weight of the evidence as to a fact does not necessarily depend on the number of  
16 witnesses who testify. What is important is how believable the witnesses were, and how much  
17 weight you think their testimonies deserve.  
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1 JURY INSTRUCTION NO. \_\_\_\_

2 You are here only to determine whether the defendant is guilty or not guilty of the charge[s]  
3 in the indictment. The defendant is not on trial for any conduct or offense not charged in the  
4 indictment.

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INSTRUCTIONS FROM THE PARTIES

1 JURY INSTRUCTION NO. \_\_\_\_

2 When you begin your deliberations, elect one member of the jury as your foreperson who will  
3 preside over the deliberations and speak for you here in court.

4 You will then discuss the case with your fellow jurors to reach agreement if you can do so.  
5 Your verdict, whether guilty or not guilty, must be unanimous.

6 Each of you must decide the case for yourself, but you should do so only after you have  
7 considered all the evidence, discussed it fully with the other jurors, and listened to the views of your  
fellow jurors.

8 Do not be afraid to change your opinion if the discussion persuades you that you should. But  
9 do not come to a decision simply because other jurors think it is right.

10 It is important that you attempt to reach a unanimous verdict but, of course, only if each of  
11 you can do so after having made your own conscientious decision. Do not change an honest belief  
12 about the weight and effect of the evidence simply to reach a verdict.

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1 JURY INSTRUCTION NO. \_\_\_\_\_

2 Because you must base your verdict only on the evidence received in the case and on these  
3 instructions, I remind you that you must not be exposed to any other information about the case or  
4 to the issues it involves. Except for discussing the case with your fellow jurors during your  
deliberations:

5 Do not communicate with anyone in any way and do not let anyone else  
6 communicate with you in any way about the merits of the case or anything to do with  
7 it. This includes discussing the case in person, in writing, by phone or electronic  
8 means, via email, text messaging, or any Internet chat room, blog, website or other  
feature. This applies to communicating with your family members, your employer,  
the media or press, and the people involved in the trial. If you are asked or  
approached in any way about your jury service or anything about this case, you must  
respond that you have been ordered not to discuss the matter and to report the contact  
to the court.

13 Do not read, watch, or listen to any news or media accounts or commentary  
14 about the case or anything to do with it; do not do any research, such as consulting  
dictionaries, searching the Internet or using other reference materials; and do not  
15 make any investigation or in any other way try to learn about the case on your own.

16 The law requires these restrictions to ensure the parties have a fair trial based on the same  
evidence that each party has had an opportunity to address. A juror who violates these restrictions  
17 jeopardizes the fairness of these proceedings [and a mistrial could result that would require the entire  
18 trial process to start over]. If any juror is exposed to any outside information, please notify the court  
19 immediately.

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1 JURY INSTRUCTION NO. \_\_\_\_

2 Some of you have taken notes during the trial. Whether or not you took notes, you should  
3 rely on your own memory of what was said. Notes are only to assist your memory. You should not  
4 be overly influenced by your notes or those of your fellow jurors.

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1 JURY INSTRUCTION NO. \_\_\_\_

2 The punishment provided by law for this crime is for the court to decide. You may not  
3 consider punishment in deciding whether the government has proved its case against the defendant  
4 beyond a reasonable doubt.

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1 JURY INSTRUCTION NO. \_\_\_\_

2 A verdict form has been prepared for you, which the attorneys may explain to you in closing  
3 argument. After you have reached unanimous agreement on a verdict, your foreperson will fill in  
4 the form that has been given to you, sign and date it and advise the bailiff that you are ready to return  
5 to the courtroom.

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1 JURY INSTRUCTION NO. \_\_\_\_

2 If it becomes necessary during your deliberations to communicate with me, you may send a  
3 note through the marshal or bailiff, signed by your foreperson or by one or more of you. No member  
4 of the jury should ever attempt to communicate with me except by a signed writing, and I will  
5 communicate with any member of the jury on anything concerning the case only in writing or here  
6 in open court. If you send out a question, I will consult with the lawyers before answering it, which  
7 may take some time. You may continue your deliberations while waiting for the answer to any  
8 question. Remember that you are not to tell anyone – including me – how the jury stands,  
9 numerically or otherwise, on the question of the guilt of the defendant, until after you have reached  
a unanimous verdict or have been discharged.

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Sample of  
Defendants  
Exhibit

DEFENDANT'S  
EXHIBIT  
501

Sample of  
Plaintiff's  
Exhibit

PLAINTIFF'S  
EXHIBIT  

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## EXHIBIT LIST

Case No. \_\_\_\_\_

Page \_\_\_\_ of \_\_\_\_ page:

Exhibits on behalf of: \_\_\_\_\_